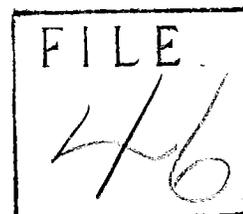


TAXATION: Municipal and school bonds are not exempt from taxation.

December 11, 1941

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Honorable Alvin H. Juergensmeyer
Prosecuting Attorney
Warren County
Warrenton, Missouri



Dear Sir:

Your request for an official opinion under date of November 15, 1941, has been received by this office, which request reads as follows:

"1. The town of Wright City, Missouri, has issued water and sewer bonds for the construction of a water and sewer system. Are said bonds exempt from taxation?"

"2. The school district of Wright City, Missouri, has issued school bonds for the erection of a school building. Are said bonds exempt from taxation?"

Wright City, Missouri, is an incorporated town having a population of 436. The water and sewer bonds issued for the construction of a water and sewer system are authorized by the applicable provisions of Articles 10, 11 and 31 of Chapter 38, R. S. Mo. 1939.

Sections 6 and 7 of Article X of the Missouri Constitution provide as follows:

"Section 6. Property exempt from taxation.-- The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile

of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable, also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies; Provided, that such exemptions shall be only by general law."

"Section 7. Other exemptions void. -- All laws exempting property from taxation, other than the property above enumerated, shall be void."

The Supreme Court has held that exemptions under this section have reference solely to tangible and specific lands and personalty, and incomes are not within its provisions and are not exempt from taxation. *Wire Co. v. Wollbrinck*, 275 Mo. 339, 205 S. W. 196. It was held in the case of *State ex rel. Globe-Democrat Pub. Co., v. Gehner*, 316 Mo. 694, 294 S. W. 1017, that no property is exempt from taxation except that specifically exempted by law and that which is not subjected to taxation.

Section 10936, R. S. Mo. 1939, provides as follows:

"For the support of the government of the state, the payment of the public debt, and the advancement of the public interest, taxes shall be levied on all property, real and personal, except as stated in the next section."

Section 10937, R. S. Mo. 1939, provides as follows:

"The following subjects are exempt from taxation: First, all persons belonging to the army of the United States; second, lands and lots, public buildings and structures with their furniture and equipments, belonging to the United States;

third, lands and other property belonging to this state; fourth, lands and other property belonging to any city, county, or other municipal corporation in this state, including market houses, town halls and other public structures, with their furniture and equipments and all public squares and lots kept open for health, use or ornament; fifth, lands or lots of ground granted by the United States or this state to any county, city or town, village or township, for the purpose of education, until disposed of to individuals by sale or lease; sixth, lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots of one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools or for purposes purely charitable, shall be exempted from taxation for state, county or local purposes."

We find no statute attempting to provide an exemption from taxation of water works and sewer bonds such as have been issued by the Town of Wright City, Missouri, but in the case of State ex rel. St. Louis Co. v. Gordon, 268 Mo. 713, 188 S. W. 160, the Supreme Court held an act of the Legislature of 1907 unconstitutional which attempted to exempt from taxation county road bonds, same being violative of Sections 6 and 7 of Article X of the Missouri Constitution. In the case of Vice v. City of Kirksville, 280 Mo. 348, 217 S. W. 77, the Supreme Court held an act of the Legislature of 1905 attempting to exempt city water works bonds from taxation unconstitutional, as violative of Section 6 of Article X of the Missouri Constitution.

The water and sewer bonds issued by the Town of Wright City, Missouri, however, should be considered as securities held for investment by the owner or purchaser of the bonds and are taxable the same as other personal property. Municipal bonds are uniformly held to be subject to general taxation unless lawfully exempted therefrom by constitutional and statutory provisions. The general rule is stated in 26

R. C. L., Section 292, page 334, as follows:

"State or municipal bonds are looked upon merely as securities held for investment by the owner and are taxable for the same reasons that other obligations to pay money are taxable in the hands of the creditor."

The same authority also states the general rule that municipal bonds are not taxable by the Federal Government, 26 R. C. L., Section 61, page 85, Section 292, page 335.

"Municipal corporations cannot issue bonds exempt from taxation unless the power to do so has been delegated to them and even the Legislature cannot authorize municipalities to issue bonds exempt from taxation if the constitution forbids."
(McQuillin Municipal Corporations, Vol. V, Section 2394, Page 5006.)

The school bonds issued by the School District of Wright City, Missouri were authorized by the provisions of Article 5 of Chapter 72 of the Revised Statutes of Missouri, 1939. We find no statute exempting such school bonds from general taxation. Any such statute, however, would be violative of Sections 6 and 7 of Article X of the Missouri Constitution, which said Section 6 of Article X of the Missouri Constitution only provides for an exemption by general law of certain real estate used exclusively for school purposes. See also *Wire Company v. Wollbrinck*, supra; *Kansas City v. College*, 111 Mo. 141, 20 S. W. 35; *State ex rel. Spillers v. Johnston*, 214 Mo. 656, 113 S. W. 1083. Under the provisions of Section 10936 and 10937, R. S. Mo. 1939, school bonds are subject to taxation the same as other personal property. With reference to taxation, school bonds are generally held taxable the same as municipal bonds and are classed as such in the hands of the purchaser or investor.

Conclusion

It is, therefore, the opinion of this Department that the water and sewer bonds issued by the Town of Wright City,

Hon. Alvin H. Juergensmeyer

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Missouri, as well as the school bonds issued by the School District of Wright City, Missouri, are subject to taxation for state, county and local purposes the same as other personal property in the hands of the purchaser or owner thereof at place of the taxpayer's domicile.

Respectfully submitted,

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APPROVED:

VANE C. THURLO
(Acting) Attorney-General

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